

By: West

S.B. No. 337

A BILL TO BE ENTITLED

AN ACT

relating to the age at which a person may purchase aerosol paint.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 485.017, Health and Safety Code, is amended to read as follows:

Sec. 485.017. SIGNS. A business establishment that sells an abusable volatile chemical at retail shall display a conspicuous sign, in English and Spanish, that states the following:

It is unlawful for a person to sell or deliver an abusable volatile chemical, other than aerosol paint, to a person under 18 years of age. Except in limited situations, such an offense is a state jail felony.

It is unlawful for a person to sell or deliver aerosol paint to a person under 21 years of age. Except in limited situations, such an offense is a state jail felony.

It is also unlawful for a person to abuse a volatile chemical by inhaling, ingesting, applying, using, or possessing with intent to inhale, ingest, apply, or use a volatile chemical in a manner designed to affect the central nervous system. Such an offense is a Class B misdemeanor.

SECTION 2. Section 485.019(b), Health and Safety Code, is amended to read as follows:

(b) This section does not apply to a business establishment that has in place a computerized checkout system at the point of sale for merchandise that alerts the cashier that a person purchasing aerosol paint must be over 21 ~~[18]~~ years of age.

SECTION 3. The heading to Section 485.032, Health and Safety Code, is amended to read as follows:

Sec. 485.032. PROHIBITED DELIVERY ~~[TO A MINOR]~~.

SECTION 4. Section 485.032, Health and Safety Code, is amended by amending Subsections (a) and (c) and adding Subsections (a-1) and (c-1) to read as follows:

(a) A person commits an offense if the person knowingly delivers an abusable volatile chemical, other than aerosol paint, to a person who is younger than 18 years of age.

(a-1) A person commits an offense if the person knowingly delivers aerosol paint to a person who is younger than 21 years of age.

(c) It is an affirmative defense to prosecution under Subsection (a) ~~[this section]~~ that:

(1) the actor ~~[person making the delivery]~~ is at least 18 years of age and has ~~[an adult having]~~ supervisory responsibility over the person younger than 18 years of age and:

(A) the actor ~~[adult]~~ permits the use of the abusable volatile chemical only under the actor's ~~[adult's]~~ direct supervision and in the actor's ~~[adult's]~~ presence and only for its intended purpose; and

(B) the actor ~~[adult]~~ removes the chemical from the person younger than 18 years of age on completion of that use;

1 or

2 (2) the person to whom the abusable volatile chemical
3 was delivered presented to the actor [~~defendant~~] an apparently
4 valid Texas driver's license or an identification certificate,
5 issued by the Department of Public Safety of the State of Texas and
6 containing a physical description consistent with the person's
7 appearance, that purported to establish that the person was 18
8 years of age or older.

9 (c-1) It is an affirmative defense to prosecution under
10 Subsection (a-1) that:

11 (1) the actor is at least 21 years of age and has
12 supervisory responsibility over the person younger than 21 years of
13 age and:

14 (A) the actor permits the use of the aerosol
15 paint only under the actor's direct supervision and in the actor's
16 presence and only for its intended purpose; and

17 (B) the actor removes the aerosol paint from the
18 person younger than 21 years of age on completion of that use; or

19 (2) the person to whom the aerosol paint was delivered
20 presented to the actor an apparently valid Texas driver's license
21 or an identification certificate, issued by the Department of
22 Public Safety of the State of Texas and containing a physical
23 description consistent with the person's appearance, that
24 purported to establish that the person was 21 years of age or older.

25 SECTION 5. Section [485.035](#), Health and Safety Code, is
26 amended by amending Subsection (a) and adding Subsection (a-1) to
27 read as follows:

1 (a) A person commits an offense if the person sells an
2 abusable volatile chemical, other than aerosol paint, in violation
3 of Section 485.011 and the purchaser is 18 years of age or older.

4 (a-1) A person commits an offense if the person sells
5 aerosol paint in violation of Section 485.011 and the purchaser is
6 21 years of age or older.

7 SECTION 6. (a) The changes in law made by this Act to
8 Chapter 485, Health and Safety Code, apply only to an offense
9 committed on or after the effective date of this Act. For purposes
10 of this subsection, an offense is committed before the effective
11 date of this Act if any element of the offense occurs before that
12 date.

13 (b) An offense committed before the effective date of this
14 Act is governed by the law in effect on the date the offense was
15 committed, and the former law is continued in effect for that
16 purpose.

17 SECTION 7. This Act takes effect September 1, 2017.